

TOWN OF HILLSBOROUGH BOARD OF COMMISSIONERS

**RESOLUTION AMENDING A SPECIAL USE PERMIT SUBJECT TO
SPECIAL CONDITIONS AFFECTING 40.13 ACRES OF LAND IDENTIFIED AS PIN
9874-38-1861 and 9874-49-0155; TAX MAP NO. 4.37.A.3c & 3d**

WHEREAS, the Town of Hillsborough Board of Commissioners previously approved a Special Use Permit authorizing the development of 40.13 acres of land located on the south side of US 70 Bypass, between Latta Road and Gwenn Road, said parcels bearing PINs 9874-38-1861 and 9874-49-0155; TAX MAP NO. 4.37.A.3c & 3d, said parcel being owned by **Hillsborough Residential Associates**; and

WHEREAS, the applicant has submitted a modification request to that approved Permit consistent with a negotiated settlement to allow a revised project to move forward; and

WHEREAS, the conditions of approval in Exhibit 1 detail all the conditions of that settlement and language in those conditions control if the details of the referenced drawings conflict with the written conditions;

NOW, THEREFORE, BE IT RESOLVED by the Town of Hillsborough Board of Commissioners, on motion of _____, seconded by _____, **this 12th day of May, 2008** as follows;

1. The Board of Commissioners has considered all the information presented to it both in support of and in opposition to the application at the February 25, 2008 and March 20, 2008 public hearings;

2. The Board of Commissioners finds that the requested permit is within its jurisdiction according to the Table of Permissible Uses, that the application is complete, and that if the proposed development is completed as proposed in the application, subject to the Special Conditions attached hereto, it will comply with the requirements of the Zoning Ordinance.

3. The Special Conditions attached to the Special Use Permit as Exhibit 1 are intended to preserve and/or promote the health, safety and welfare of the surrounding areas and the Town of Hillsborough in general, and to insure that the Performance Standards established by Section 4.48 of the Zoning Ordinance are met.

4. Upon adoption of this Resolution, the Town of Hillsborough shall issue a modified Special Use Permit in the standard form to replace the one recorded at Book 3597 Page 33 and notice of this decision and issuance of the modified special use permit shall be transmitted forthwith in accordance with Section 4.41.10 of the Zoning Ordinance.

WHEREFORE, the foregoing Resolution was put to a vote of the Town of Hillsborough Board of Commissioners **this 12th day of May, 2008**, the result of which vote was as follows:

Ayes: _____

Noes: _____

Absent or Excused: _____

Dated: _____

Donna Armbrister, Town Clerk

Exhibit 1

1. The plans sealed April 20, 2006 are the plans approved by this permit, including support materials. *Alternate plans to use the Continuing Care Retirement Community model rather than the MAHS model are also approved. If this model is selected and implemented the plans approved are dated March 20, 2008 including support material, conditions 13-22 below will be void and conditions 23-37 will govern.*
2. The transportation improvements recommended by the traffic impact study dated October 2002 will be installed at the developers expense before occupancy of the project. In addition, the installation of a traffic signal at the applicant's expense at the Gwenn Road entrance if the NCDOT will permit its installation.
3. The applicant will dedicate right-of-way along US 70 Bypass as necessary to achieve this development's ½ of the ultimate width of 100 feet (if necessary).
4. Detailed site plan and engineering drawings will be submitted and approved by the Town staff prior to construction regarding, but not limited to: zoning, water, sewer, stormwater, and fire protection.
5. Home Owners Association documents must be reviewed and approved by town staff before occupancy permits are granted for any residential structure.
6. The community approved by this special use permit is intended to be exempt from the Fair Housing Act pursuant to Section 807(b)(2)(c). The developer shall include in the HOA documents covenants to assure compliance with HUD regulations for elderly housing.
7. The perimeter walking trail will be constructed predominately in the voluntary portion of the buffer with minor intrusions into the required buffer. The trail will be of asphalt and 6'-8' in width.
8. A meandering sidewalk, as approved by NCDOT, will be constructed to serve as a walking trail along the right of way for US 70 Bypass with end connections out to the existing road pavement and connections to the site circulation system. The surface of this sidewalk will likely be concrete, but determined by NCDOT standards.
9. The applicant agrees to allow the adjacent parcel to the west (PIN 9874-39-3403) to connect to the entrance road.

10. The required portion of the perimeter buffer and the Neuse Basin buffers shall remain intact without grading. Some tree removal may occur in the voluntary buffer, but it will be limited and the buffer will be supplemented with new plantings if needed to meet the ordinance standard.
11. A range of services to allow residents to remain in independent dwelling units as detailed in Performance Standards and Supplemental Materials document dated 10/03/2002 is expected to continue for the life of the project.
12. The applicant agrees to reserve Tract 3 for development of 50 units of HUD 202 housing until October 1, 2005 and contribute \$10,000 toward the HUD 202 application fee. It is anticipated 50 units can be placed on this parcel. Any portion of the 50 units that is not made part of the HUD 202 application will be made available for other moderate to low-income housing programs including but not limited to the Orange Community Housing and Land Trust. In the event that the HUD 202 application has not received funding by October 1, 2005, the applicant may elect to pursue another form of moderate to low-income housing for Tract 3.
13. That portion of the plans dated October 3, 2003 for the Corbinton Commons Property and Project which depicted the "Carillon" assisted living facility shall be revised to include a revised site plan replacing the "Carillon" assisted living facility with a "multiunit assisted housing with services" facility consistent with N.C. Gen. Stat. § 131D-2a(7a) (hereinafter referred to as the "MAHS Facility"). A copy of the revised site plan is attached hereto.
14. The MAHS Facility will make at least the following services available to its residents. The person or entity with whom applicant contract for operation of the MAHS Facility (the "MAHS Facility Operator") may, in its discretion, charge its residents additional costs for these services. The "menu" (including cost) for such services shall be kept up to date by the MAHS Facility Operator, and shall be made available to all residents/applicants at or before the time that such resident/applicant enters into written agreement for residency at the MAHS Facility. The services required to be made available to residents of the MAHS Facility are:
 - (i) recreational activities;
 - (ii) housekeeping services;
 - (iii) laundry services;
 - (iv) local transportation services of shopping and local community activities; and
 - (v) dietary/nutritional services with emphasis on serving the nutritional needs of residents with diabetes, high blood pressure and other common, chronic health conditions.
15. The MAHS Facility Operator shall prepare and file with the Town Clerk a "Resident Grievance Procedure/Bill of Rights" prior to issuance of a Certificate of Occupancy for the MAHS Facility, and all changes to such "Resident Grievance Procedure/Bill of Rights" shall likewise be filed with the Town Clerk;
16. The MAHS Facility Operator shall employ a full time Program Coordinator, who shall be based on the site. The MAHS Facility Operator or its Program Coordinator shall provide the Orange County Department of Aging Services periodically with up to date information concerning programming available to residents of the MAHS Facility;

17. The MAHS Facility Operator shall file with the Town Clerk annually, on or before July 1 of each year after a Certificate of Occupancy for the MAHS Facility is issued, an inspection report prepared by a qualified, independent, third party specialist concerning the condition of the MAHS Facility, its grounds, and the types of services available to residents of the MAHS Facility, and the parties hereto designate Re-Solutions, 100 Rivergreen Court, Cary, North Carolina 27511 as the qualified, independent, third party specialist authorized to conduct such inspections. In the event that Re-Solutions is unable or unwilling to serve in this capacity, then the MAHS Facility Operator shall notify the Town, and the MAHS Facility Operator and the Town shall agree upon a substitute inspector;
18. The MAHS Facility Operator will create and administer a “Resident Council” for residents of the MAHS Facility. The names of the members of the Resident Council shall be provided to the Town, and the MAHS Facility Operator shall transmit to the Town Clerk a notice in advance of each Resident Council meeting and a copy of the agenda for each such meeting. A representative of the Town Board may attend Resident council meetings.
19. The MAHS Facility Operator shall make application to the appropriate State agency or agencies for any “certificate of need” (“CON”) adult care bed(s) which may become available in Orange County and, if such CON application is granted or if the MAHS Facility Operator acquires CON adult care bed(s) for the MAHS Facility in some other fashion, the MAHS Facility Operator may substitute any CON adult care bed(s) so granted or acquired for MAHS beds in equivalent number in the MAHS Facility. The MAHS Facility Operator shall have the right, without requiring further approval from the Town, to substitute any CON adult care bed(s) so granted or acquired for MAHS beds in the MAHS Facility without further modification of this special use permit, up to the maximum bed capacity approved by the Town for the MAHS Facility.
20. The overall site plan for the Corbinton Commons Property and Project shall be amended to eliminate the proposed walking path connection from the Corbinton Commons Property to Caine Street (located adjacent to the southwest corner of the Corbinton Commons Property); provided, however, that such walking path connection may be developed if the Town Board authorizes the connection of the perimeter path around the Corbinton Commons Property to the Caine Street right-of-way.
21. Applicant shall, within thirty (30) days following issuance of the modified special use permit, file a petition seeking voluntary annexation of the entire Corbinton Commons Property into the corporate limits of the Town of Hillsborough.
22. The Declaration of Covenants and Restrictions for the single family, detached unit portion of the Corbinton Commons Project shall include a provision requiring the Property Owners Association to be formed by the developer to be responsible for exterior maintenance (including painting and roofing) of the single family detached dwelling units.
23. *The southwestern 4 story building (nearest storm pond) of the complex shall be reduced to 3 stories*

24. *The four units lost with that height reduction may be added to the duplexes along the southeast. The total number of duplexes will increase to 14 units maximum and the size limited to 1600 sf each (excluding garage)*
25. *The maximum building height measured from the mean elevation of the finished grade along the side of the structure to the peak will be no more than 65' for 4 story buildings and no more than 53' for 3 story buildings*
26. *There will be no alley behind (southeast of) the duplexes along the southeast side of the property*
27. *The exterior siding materials of all CCRC buildings will incorporate brick &/or stone covering at least 40% of the exterior wall surface, in vertical sections; remaining siding shall be neutral & include a variety of colors*
28. *The development shall construct a pedestrian access to Corbin Street to connect to downtown*
29. *The existing buffer will be improved to an opaque vegetative buffer. New landscape materials shall consist of mixed evergreen species, and plantings shall be at least 8'-10' in height when installed*
30. *All existing conditions not specific to the MAHS operation model will carry forward under this option*
31. *Exterior lighting shall not exceed 0.5 footcandles measured at the property line*
32. *The exterior surface of the parking deck near the storm pond shall be treated with the same finish as the buildings in the CCRC portion of the property*
33. *The duplexes on the southeast shall be rotated so as to provide a minimum 75' buffer measured from the southeast boundary of the property, as shown on the handout from the 3/20 hearing, but with the rear alley eliminated (see condition 4 above)*
34. *All CCRC units shall receive solid waste collection services via private collection service, and the Town shall not have any responsibility to provide solid waste collection services on the CCRC portion of the property; all solid waste collection services shall be provided by an authorized contractor/franchisee in a manner consistent with the Town's solid waste collection services franchise ordinance*
35. *The Corbinton Commons Development agrees that it shall not cause any connections of the streets within the Corbinton Commons property to be made to St. Mary's Road.*
36. *A fence with gate will be installed by the applicant to block neighboring views along the southwest sewer in easement at Caine St if approved by utilities*
37. *Signage for the entire development and components within the development shall conform with the current zoning requirements and limitations at the time permits for signs are requested. Where a zoning designation is needed to determine sign requirements, the Office-Institutional district shall be used in the absence of a standard for Mixed Residential Special Use.*